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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,366	02/26/2004	David A. Eatough	3408.2.6	7955

21552   7590   10/02/2007
MADSON & AUSTIN
15 WEST SOUTH TEMPLE
SUITE 900
SALT LAKE CITY, UT 84101

EXAMINER
STEELMAN, MARY J

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
10/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/787,366	EATOUGH ET AL.
	Examiner	**Art Unit**	
	MARY STEELMAN	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _20 July 2007_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-18_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-18_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All   b) ☐ Some * c) ☐ None of:

    1. ☐ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____.

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to Remarks received 07/20/2007. Claims 1-18 are

pending.

Response to Arguments

2.   Applicant's arguments filed have been fully considered but they are not persuasive.

Applicants have argued, in substance, the following:

(A) As noted on page 7, 1st paragraph, "Peters does not disclose that the migration content

storage partition is transparent to an imaging tool.

Examiner's Response: This is not a claim limitation. Claim recites, "wherein the temporary file

system is transparent to the imaging tool and wherein the temporary file system is not the file

system of the hard drive."

(B) As noted on page 6, last paragraph, Peters does not disclose "a temporary file system [that]

is transparent to the imaging tool."

Examiner's Response: As disclosed in Applicant's Specification:

[20] & [25] The temporary file system is transparent to the imaging tool and is not the file

system of the hard drive.

[34] The fact that the provided file system is hosted on the same drive is transparent to the imaging tool.

[51] The temporary file system 614 is transparent to the imaging tool 604 because the imaging tool 604 does not need to have any knowledge about the temporary file system 614. By making the temporary file system 614 transparent to the imaging tool 604, many different brands of imaging tools 604 may be used with the temporary file system 614.

It is not clear what meaning Applicant gives to 'transparent'. The "migration content storage partition", used to restore migration content from the migration content storage partition into the newly imaged partition, is accessed, and used in customizing the new image. Col. 8: 36-38, migration content is read back from its temporary storage location and applied to the newly image partitions. A tool (software steps used) to access, retrieve / migrate content from the temporary file system, such as an extended partition. See col. 11: 11-27, Data is captured and saved in the extended partition. A reboot invokes an imaging tool to load (operating system was loaded into the system's primary partition by the imaging operation) the new image onto the system's primary partition (transparently from extended partition). Examiner cites this as being analogous to "a temporary file system [that] is transparent to the imaging tool."

(C) As noted on page 7, 2nd paragraph, Because Peters makes use of both a migration tool and an imaging tool, the migration tool used by Peters is not an imaging tool.

Examiner's Response: As disclosed in Applicant's Specification:

[38] Thus imaging enables computer support personnel to upgrade, update, or change a system...The term imaging as used herein is broadly defined as writing a set of data to a storage device to effect a change to the computer system without going through a typical manual installation process. Sometimes the terms restoring, copying or storing are also used to describe an imaging job.

[46] The imaging tool 410 is software that is used to image or re-image the hard drive 412.

Peters uses the terms 'migration tool' and 'imaging tool' Col. 3: 29-35, "the invention provides tools and techniques for coordinating image deployment with user profile migration by using partition manipulation tools and scripts or other software commands. The invention permits one to maintain user customization while deploying a new operating system, and operating system upgrade, or a rollback image that rolls the receiving partition back to an earlier state..." Peters recites (col. 6: 47-49) "steps may also be repeated, named differently, and / or grouped differently..." Because Applicant's Specification recites "term imaging as used herein is broadly defined as writing a set of data to a storage device to effect a change", it encompasses both the migrating steps of capturing and storing information into an extended partition, as well as the steps taken to load the information onto the primary partition.

Examiner maintains the rejection of claims 1-18.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

> A person shall be entitled to a patent unless –

3.   Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,920,555

B1 to Peters et al.

Per claims 1, 10, and 15:

A method for writing an image to a storage device of a computer system, the method comprising:

Col. 4: 48-52, perform one or more steps for coordinating partition manipulations, imaging, and

user profile migration

Col. 7:65- col. 8:3, migration content is captured...and is saved 208 in the migration content

storage partition

-receiving an image on the computer system, wherein the computer system has a current

operating system and includes a hard drive having a file system;

Peters: Col. 3: 34, an operating system upgrade Col. 4: 43, hard disks

Col. 8: 24-26, newly imaged partition 600 in the computer's partitionable storage 102 includes

the newly deployed operating system, the operating system upgrade, the rollback image...

-storing the image on the computer system;

Peters: col. 2: 40-44, saves migration content into the provided migration content storage

partition.

-using an imaging tool to write the image to the hard drive of the computer system, wherein the

imaging tool uses a temporary file system to access the image, wherein the temporary file system

is transparent to the imaging tool and wherein the temporary file system is not the file system of

the hard drive.

Peters: Col. 2: 20-25, migration content storage partition Col. 2: 55-57, restore migration

content from the migration content storage partition into the newly imaged partition, thereby

customizing the new image. Col. 8: 36-38, migration content is read back from its temporary

storage location and applied to the newly image partitions

Per claim 2:

-the image is stored on one or more partitions of the hard drive of the computer system without

using the file system.

Peters: Col. 3: 1-10, Migration code may reside in various computer readable media...files on a

bootable CD, files in the new image on the computer's disk, and/or command files for network

management tools.

Per claim 3:

-writing the image to the one or more partitions of the hard drive of the computer system such

that the imaging tool is accessing the image from the same hard drive as it is writing the image

to.

Peters: Col. 8: 36-38, migration content is read back from its temporary storage location and

applied to the newly image partitions

Per claim 4:

-running an imaging operating system that is different than the current operating system, wherein

the imaging tool operates on the imaging operating system.

Peters: Col. 5: 6-8, boot management program that permits a user to select between two or more

operating systems 104 that are installed on the computer system 100.

Per claims 5, 11, and 16:

-the imaging operating system comprises DOS.

Peters: col. 5: 3, Microsoft Corporation Windows operating systems (built on DOS) Col. 11: 59,

DOS

Per claims 6, 12, and 17:

-the temporary file system is implemented at the BIOS level through use of an interrupt.

Peters: Col. 3: 11-14, Some methods of the invention pass control from one part of the migration code to the next part by rebooting (BIOS / interrupt) the computer, so that automatically executed batch files – which are run after a reboot – will invoke the next tool.

Per claims 7 and 13:

-sending the image from an administrative system to the computer system.

Peters: See FIG. 4A & related text at col. 10: 14.

Per claim 8:

-the image is multicast by the administrative system.

Peters: Col. 21: 35-36, migrations can proceed in parallel on multiple clients (multicast)

Per claim 9, 14, and 18:

-the image is stored on an unformatted partition of the hard drive and on the final sectors of the unformatted partition.

Peters: Col. 7: 47-50, implicit partition, namely, space in the medium 102 which lies outside all expressly defined partitions and which has a beginning and end implicitly defined by one or more express partitions and/or disk edges.

Per claim 15:

See limitations addressed in claims 1 and 7 above. "Imaging server" – Col. 6: 6-8, possible to

configure or reconfigure the computer system 100 from a remote machine (imaging server) over

a network.

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mary Steelman, whose telephone number is (571) 272-3704. The

examiner can normally be reached Monday through Thursday, from 7:00 AM to 5:30 PM If

attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei

Zhen can be reached at (571) 272-3708. The fax phone number for the organization where this

application or proceeding is assigned: 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary Steelman

09/25/2007

**MARY STEELMAN
PRIMARY EXAMINER**